

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE PROPERTY TAXATION OF CERTAIN BUSINESS EQUIPMENT; PROVIDING FOR A PHASED-IN REDUCTION IN THE TAX RATE APPLIED TO CLASS EIGHT BUSINESS EQUIPMENT; REIMBURSING LOCAL GOVERNMENTS FOR THE LOSS IN PROPERTY TAX REVENUE; ELIMINATING THE PROPERTY TAX ON CLASS EIGHT BUSINESS EQUIPMENT IN TAX YEAR 2004; CLARIFYING THE EXEMPTION OF BUSINESS EQUIPMENT FROM TAXATION; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-6-138, 15-6-156, 15-6-201, 15-24-3001, 17-7-502, AND 76-6-109, MCA; REPEALING SECTIONS 15-1-111, 15-1-112, AND 15-6-138, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Reimbursement payment. (1) The department shall determine the amount of property tax lost by each local government as a result of the amendments to 15-6-138 contained in [section 2] on January 1, 2004, and the repeal of former 15-1-111 and 15-1-112 on January 1, 2006. The department shall use fiscal year 2004 as the base year for each determination.

(2) (a) The department shall determine the amount of revenue due each local government for fiscal year 2004 from the property tax imposed on business equipment in 15-6-138.

(b) The department shall then calculate for each local government for fiscal year 2004 the amount of revenue that would have been due from the property tax imposed in 15-6-138 if 15-6-138(4)(b) had been in effect for fiscal year 2004.

(3) (a) The amount of the reimbursement to each local government for fiscal year 2005 is equal to the difference between the amounts calculated in subsections (2)(a) and (2)(b).

(b) For fiscal year 2006, the amount of the reimbursement to each local government is double the amount calculated in subsection (3)(a).

(c) For fiscal year 2007 and for each succeeding fiscal year in which 15-6-138 is repealed, the amount of the reimbursement to each local government is triple the amount calculated in subsection (3)(a).

(4) The department shall distribute the reimbursement payments to local governments in two similar

installments for each fiscal year on or before December 15 and June 15. Each local government shall distribute the revenue received among its funds and districts according to current-year mill levies. Each tax increment financing district must receive the benefit of the reimbursement based on the loss to the incremental taxable value of the district.

(5) (a) As used in this section, "local government" means a county, consolidated local government, incorporated city, incorporated town, school district, miscellaneous district, or other district that levies mills.

(b) The term does not include the state.

(6) The local government reimbursements calculated in this section are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments.

Section 2. Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-201, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-104;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

1 (i) citizens' band radios and mobile telephones;
2 (j) radio and television broadcasting and transmitting equipment;
3 (k) cable television systems;
4 (l) coal and ore haulers;
5 (m) theater projectors and sound equipment; and
6 (n) all other property that is not included in any other class in this part, except that property that is
7 subject to a fee in lieu of a property tax.

8 (2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000
9 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a
10 mining or quarrying environment.

11 (3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or
12 service, wholesale, retail, or food-handling business.

13 (4) Class eight property is taxed at:

14 (a) 3% of its market value for tax years ending on or before December 31, 2003;

15 (b) 2% of its market value for tax year 2004; and

16 (c) 1% of its market value for tax year 2005.

17 ~~(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana~~
18 ~~wage and salary income, in the last full year for which data is available, is at least 2.85% from the prior year, then~~
19 ~~the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.~~

20 ~~—— (b) The department shall calculate the percentage growth in subsection (5)(a) by using the formula~~
21 ~~$(W/CPI) - 1$, where:~~

22 ~~—— (i) W is the Montana wage and salary income for the most current available year divided by the Montana~~
23 ~~wage and salary income for the year prior to the most current available year; and~~

24 ~~—— (ii) CPI is the consumer price index for the most current available year used in subsection (5)(b)(i)~~
25 ~~divided by the consumer price index for the year prior to the most current available year as used in subsection~~
26 ~~(5)(b)(i).~~

27 ~~—— (c) For purposes of determining the percentage growth in subsection (5)(a), the department shall use~~
28 ~~the wage and salary data series referred to as the bureau of economic analysis of the United States department~~
29 ~~of commerce Montana wage and salary disbursements. Inflation must be measured by the consumer price~~
30 ~~index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the~~

~~bureau of labor statistics of the United States department of labor.~~

~~(6)(5) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"~~

Section 3. Section 15-6-156, MCA, is amended to read:

"15-6-156. Class thirteen property -- description -- taxable percentage. (1) Except as provided in subsections (2)(a) through (2)(g), class thirteen property includes:

- (a) electrical generation facilities of a centrally assessed electric power company;
- (b) electrical generation facilities owned or operated by an exempt wholesale generator or an entity certified as an exempt wholesale generator pursuant to section 32 of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79z-5a;
- (c) noncentrally assessed electrical generation facilities owned or operated by any electrical energy producer; and
- (d) allocations of centrally assessed telecommunications services companies.

(2) Class thirteen property does not include:

- (a) property owned by cooperative rural electric cooperative associations classified under 15-6-135;
 - (b) property owned by cooperative rural electric cooperative associations classified under 15-6-137;
 - (c) allocations of electric power company property under 15-6-141;
 - (d) electrical generation facilities included in another class of property;
 - (e) property owned by cooperative rural telephone associations and classified in class five;
 - (f) property owned by organizations providing telecommunications services and classified in class five;
- and
- (g) generation facilities that are exempt under 15-6-225.

(3) (a) For the purposes of this section, "electrical generation facilities" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(b) The term does not include electrical generation facilities used for noncommercial purposes or

1 exclusively for agricultural purposes.

2 (c) The term also does not include a qualifying small power production facility, as that term is defined
3 in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale
4 of electricity other than electric power from a small power production facility and classified under 15-6-134 and
5 ~~15-6-138~~.

6 (4) Class thirteen property is taxed at 6% of its market value."
7

8 **Section 4.** Section 15-6-201, MCA, is amended to read:

9 **"15-6-201. (Temporary) Exempt categories.** (1) The following categories of property are exempt from
10 taxation:

11 (a) except as provided in 15-24-1203, the property of:

12 (i) the United States, except:

13 (A) if congress passes legislation that allows the state to tax property owned by the federal government
14 or an agency created by congress; or

15 (B) as provided in 15-24-1103;

16 (ii) the state, counties, cities, towns, and school districts;

17 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

18 (iv) municipal corporations;

19 (v) public libraries; and

20 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

21 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church
22 and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably
23 necessary for convenient use of the buildings;

24 (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and
25 for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human
26 services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department
27 of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

28 (d) property that is:

29 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

30 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care

1 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

2 (iii) not maintained and operated for private or corporate profit;

3 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
4 local governmental entity by institutions of purely public charity if the property is directly used for purely public
5 charitable purposes;

6 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
7 Montana;

8 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
9 corporate profit;

10 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
11 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
12 purposes or for furnishing or equipping the family residence;

13 (i) truck canopy covers or toppers and campers;

14 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

15 (k) motor homes;

16 (l) all watercraft;

17 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
18 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
19 irrigation of agricultural land;

20 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
21 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
22 to explore, prospect, or dig for oil, gas, coal, or minerals;

23 (o) (i) property that is owned and used by a corporation or association organized and operated
24 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
25 physical or mental impairments that constitute or result in substantial impediments to employment and that is
26 not operated for gain or profit; and

27 (ii) property that is owned and used by an organization owning and operating facilities that are for the
28 care of the retired, aged, or chronically ill and that are not operated for gain or profit;

29 (p) all farm buildings with a market value of less than \$500 and all agricultural implements and
30 machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) ~~the following percentage~~ 31% of the market value of residential property as described in 15-6-134(1)(e) and (1)(f):

~~(i) 23% for tax year 2000;~~

~~(ii) 27.5% for tax year 2001; and~~

~~(iii) 31% for tax year 2002 and succeeding tax years;~~

(aa) ~~the following percentage~~ 13% of the market value of commercial property as described in 15-6-134(1)(g):

~~(i) 9% for tax year 2000;~~

~~(ii) 11% for tax year 2001; and~~

~~(iii) 13% for tax year 2002 and succeeding tax years;~~

(bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

(cc) items of personal property intended for rent or lease in the ordinary course of business if each item of personal property satisfies all of the following:

(i) the acquired cost of the personal property is less than \$15,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;

(dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion of construction of the manufacturing facility; and

(ee) light vehicles as defined in 61-1-139.

(2) (a) For the purposes of subsection (1)(e):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually

1 with the department a copy of its federal tax return reporting any unrelated business taxable income received
2 by the charity during the tax year, together with a statement indicating whether the exempt property was used
3 to generate any unrelated business taxable income.

4 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and
5 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
6 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes
7 all real and personal property reasonably necessary for use in connection with the public display or observatory
8 use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual
9 or for-profit organization, real and personal property owned by other persons is exempt if it is:

10 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

11 (ii) held for future display; or

12 (iii) used to house or store a public display.

13 (3) For the purposes of subsection (1)(bb):

14 (a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes
15 the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products
16 solely for export from the state, either directly by the dairy or after the milk or milk product has been further
17 processed by an industrial milk processor. After export, any unprocessed milk must be further processed into
18 other dairy products.

19 (b) "industrial milk processor" means a facility and integral machinery used solely to process milk into
20 milk products for export from the state.

21 (4) The following portions of the appraised value of a capital investment in a recognized nonfossil form
22 of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt
23 from taxation for a period of 10 years following installation of the property:

24 (a) \$20,000 in the case of a single-family residential dwelling;

25 (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

26 **15-6-201. (Effective on occurrence of contingency January 1, 2006) Exempt categories.** (1) The
27 following categories of property are exempt from taxation:

28 (a) except as provided in 15-24-1203, the property of:

29 (i) the United States, except:

30 (A) if congress passes legislation that allows the state to tax property owned by the federal government

1 or an agency created by congress; or

2 (B) as provided in 15-24-1103;

3 (ii) the state, counties, cities, towns, and school districts;

4 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

5 (iv) municipal corporations;

6 (v) public libraries; and

7 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

8 (b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church
9 and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably
10 necessary for convenient use of the buildings;

11 (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and
12 for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human
13 services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department
14 of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

15 (d) property that is:

16 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

17 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
18 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

19 (iii) not maintained and operated for private or corporate profit;

20 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
21 local governmental entity by institutions of purely public charity if the property is directly used for purely public
22 charitable purposes;

23 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
24 Montana;

25 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
26 corporate profit;

27 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
28 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
29 purposes or for furnishing or equipping the family residence;

30 (i) truck canopy covers or toppers and campers;

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) motor homes;

(l) all watercraft;

(m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) (i) property that is owned and used by a corporation or association organized and operated exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or mental impairments that constitute or result in substantial impediments to employment and that is not operated for gain or profit; and

(ii) property that is owned and used by an organization owning and operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

~~(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:~~

~~——— (A) construct, repair, and maintain improvements to real property; or~~

~~——— (B) repair and maintain machinery, equipment, appliances, or other personal property;~~

~~——— (ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;~~

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) ~~the following percentage~~ 31% of the market value of residential property as described in 15-6-134(1)(e) and (1)(f):

~~—— (i) 23% for tax year 2000;~~

~~—— (ii) 27.5% for tax year 2001; and~~

~~—— (iii) 31% for tax year 2002 and succeeding tax years;~~

(aa) ~~the following percentage~~ 13% of the market value of commercial property as described in 15-6-134(1)(g):

~~—— (i) 9% for tax year 2000;~~

~~—— (ii) 11% for tax year 2001; and~~

~~—— (iii) 13% for tax year 2002 and succeeding tax years;~~

(bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used by an industrial dairy;

(cc) items of personal property intended for rent or lease in the ordinary course of business ~~if each item of personal property satisfies all of the following:~~

~~—— (i) the acquired cost of the personal property is less than \$15,000;~~

~~—— (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals and no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and~~

- 1 ~~—— (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;~~
2 (dd) all agricultural implements and equipment;
3 (ee) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;
4 (ff) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class
5 five;
6 ~~(gg) all goods and equipment that are intended for rent or lease, except goods and equipment that are~~
7 ~~specifically included and taxed in another class~~ all oil and gas production machinery, fixtures, equipment,
8 including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas
9 compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water
10 flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools, and supplies,
11 except those included in class five;
12 (hh) special mobile equipment as defined in 61-1-104;
13 (ii) furniture, fixtures, and equipment, except that specifically included in another class, used in
14 commercial establishments as defined in this section;
15 (jj) x-ray and medical and dental equipment;
16 (kk) citizens' band radios and mobile telephones;
17 (ll) radio and television broadcasting and transmitting equipment;
18 (mm) cable television systems;
19 (nn) coal and ore haulers;
20 (oo) theater projectors and sound equipment; and
21 (pp) light vehicles as defined in 61-1-139.
22 (2) (a) For the purposes of subsection (1)(e):
23 (i) the term "institutions of purely public charity" includes any organization that meets the following
24 requirements:
25 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
26 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
27 Revenue Code, as amended.
28 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
29 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
30 performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

(i) actually used by the governmental entity or nonprofit organization as a part of its public display;

(ii) held for future display; or

(iii) used to house or store a public display.

(3) For the purposes of subsection (1)(bb):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 5. Section 15-24-3001, MCA, is amended to read:

"15-24-3001. Electrical generation and transmission facility exemption -- definitions. (1) (a) Except

as provided in subsections (1)(b) and (3), an electrical generation facility and related delivery facilities constructed in the state of Montana after May 5, 2001, and before January 1, 2006, may be exempt from property taxation for a 10-year period beginning on the date that an owner or operator of an electrical generation facility and related delivery facilities commences to construct the facility as defined in 75-20-104(6)(a) and (6)(b). In order to be exempt from property taxation, an owner and operator of an electrical generation facility and related delivery facilities shall offer contracts to sell 50% of that facility's net generating output at a cost-based rate, which includes a rate of return not to exceed 12%, to customers for a 20-year period from the date of the facility's completion.

(b) The property tax exemption allowed under subsection (1)(a) is limited to a 5-year period for generation facilities powered by oil or gas turbines.

(2) To the extent that 50% of the net generating output of the facility is not contracted for delivery to consumers for a contract term extending 5 years to 20 years from the completion of the facility, as determined by the owner, surplus capacity must be offered on a declining contract term basis for the remainder of the contract period at a cost-based rate that includes a rate of return not to exceed 12%. Surplus capacity that is not contracted for in this fashion may be sold at market rates.

(3) (a) Except as provided in subsection (3)(c), if an owner or operator of property exempt from taxation under subsection (1)(a) signs a contract to sell power as required in subsection (1) and then fails to perform the contract during the first 10-year period, the 10-year property tax exemption in subsection (1) is void and the property is subject to a rollback tax as provided in 15-24-3002.

(b) Except as provided in subsection (3)(c), if an owner or operator of property exempt from taxation under subsection (1)(b) signs a contract to sell power as required in subsection (1) and then fails to perform the contract during the first 5-year period, the 5-year property tax exemption in subsection (1) is void and the property is subject to a rollback tax as provided in 15-24-3002.

(c) If an owner or operator fails to perform the contract due to earthquakes or other acts of God, theft, sabotage, acts of war, other social instabilities, or equipment failure, the property tax exemption in subsection (1)(a) or (1)(b) is not void and the owner or operator is not subject to the rollback tax as provided in 15-24-3002.

(4) For the purposes of this section, the following definitions apply:

(a) (i) "Electrical generation facility" means any combination of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and

improvements and personal property, that are normally operated together to produce 20 average megawatts or more of electric power. The term is limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(ii) The term does not include:

(A) electrical generation facilities used for noncommercial purposes or exclusively for agricultural purposes; or

(B) a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility and that is classified under 15-6-134 and ~~15-6-138~~.

(b) "Related delivery facilities" means transmission facilities necessary to deliver the energy from the electrical generation facility to the existing network transmission system.

(c) "Surplus capacity" means that portion of the 50% of net generating output not contracted for use.

(5) The department shall appraise exempt electrical generation facilities for each year that the property is exempt and determine the taxable value of the property as if it were subject to property taxation. The taxable value determined by the department must be included as taxable valuation for the purposes of county classification under 7-1-2111."

Section 6. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; [section 1]; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;

1 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612;
2 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;
3 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518;
4 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

5 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
8 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
9 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
10 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
11 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
12 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
13 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
14 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
15 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December
16 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

17
18 **Section 7.** Section 17-7-502, MCA, is amended to read:

19 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
20 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
21 the need for a biennial legislative appropriation or budget amendment.

22 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
23 of the following provisions:

24 (a) The law containing the statutory authority must be listed in subsection (3).

25 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
26 appropriation is made as provided in this section.

27 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
28 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; ~~45-4-444~~; 15-1-113; 15-1-121; 15-23-706;
29 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241;
30 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;

1 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631;
2 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703;
3 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161;
4 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

5 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
6 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
7 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
8 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
9 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
10 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
11 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
12 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
13 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
14 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
15 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December
16 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

17
18 **Section 8.** Section 76-6-109, MCA, is amended to read:

19 **"76-6-109. Powers of public bodies.** (1) A public body has the power to carry out the purposes and
20 provisions of this chapter, including the following powers in addition to others granted by this chapter:

21 (a) to borrow funds and make expenditures necessary to carry out the purposes of this chapter;

22 (b) to advance or accept advances of public funds;

23 (c) to apply for and accept and use grants and any other assistance from the federal government and
24 any other public or private sources, to give security as may be required, to enter into and carry out contracts or
25 agreements in connection with the assistance, and to include in any contract for assistance from the federal
26 government conditions imposed pursuant to federal laws as the public body may consider reasonable and
27 appropriate and that are not inconsistent with the purposes of this chapter;

28 (d) to make and execute contracts and other instruments necessary or convenient to the exercise of
29 its powers under this chapter;

30 (e) in connection with the real property acquired or designated for the purposes of this chapter, to

1 provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person
2 or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities or
3 structures that may be necessary to the provision, preservation, maintenance, and management of the property
4 as open-space land;

5 (f) to insure or provide for the insurance of any real or personal property or operations of the public body
6 against any risks or hazards, including the power to pay premiums on the insurance;

7 (g) to demolish or dispose of any structures or facilities that may be detrimental to or inconsistent with
8 the use of real property as open-space land; and

9 (h) to exercise any of its functions and powers under this chapter jointly or cooperatively with public
10 bodies of one or more states, if they are authorized by state law, and with one or more public bodies of this state
11 and to enter into agreements for joint or cooperative action.

12 (2) For the purposes of this chapter, the state or a city, town, other municipality, or county may:

13 (a) appropriate funds;

14 (b) subject to 15-10-420, levy taxes and assessments according to existing codes and statutes;

15 (c) issue and sell its general obligation bonds in the manner and within the limitations prescribed by the
16 applicable laws of the state, subject to subsection (3); and

17 (d) exercise its powers under this chapter through a board or commission or through the office or
18 officers that its governing body by resolution determines or as the governor determines in the case of the state.

19 (3) Property taxes levied to pay the principal and interest on general obligation bonds issued by a city,
20 town, other municipality, or county pursuant to this chapter may not be levied against the following property:

21 (a) agricultural land eligible for valuation, assessment, and taxation as agricultural land under 15-7-202;

22 (b) forest land as defined in 15-44-102;

23 (c) all agricultural improvements on agricultural land referred to in subsection (3)(a);

24 (d) all noncommercial improvements on forest land referred to in subsection (3)(b); and

25 (e) agricultural implements and equipment described in 15-6-138(1)(a); ~~and~~

26 ~~— (f) livestock described in 15-6-136(1)(a)."~~

27
28 **Section 9.** Section 76-6-109, MCA, is amended to read:

29 **"76-6-109. Powers of public bodies.** (1) A public body has the power to carry out the purposes and
30 provisions of this chapter, including the following powers in addition to others granted by this chapter:

1 (a) to borrow funds and make expenditures necessary to carry out the purposes of this chapter;

2 (b) to advance or accept advances of public funds;

3 (c) to apply for and accept and use grants and any other assistance from the federal government and
4 any other public or private sources, to give security as may be required, to enter into and carry out contracts or
5 agreements in connection with the assistance, and to include in any contract for assistance from the federal
6 government conditions imposed pursuant to federal laws as the public body may consider reasonable and
7 appropriate and that are not inconsistent with the purposes of this chapter;

8 (d) to make and execute contracts and other instruments necessary or convenient to the exercise of
9 its powers under this chapter;

10 (e) in connection with the real property acquired or designated for the purposes of this chapter, to
11 provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person
12 or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities or
13 structures that may be necessary to the provision, preservation, maintenance, and management of the property
14 as open-space land;

15 (f) to insure or provide for the insurance of any real or personal property or operations of the public body
16 against any risks or hazards, including the power to pay premiums on the insurance;

17 (g) to demolish or dispose of any structures or facilities that may be detrimental to or inconsistent with
18 the use of real property as open-space land; and

19 (h) to exercise any of its functions and powers under this chapter jointly or cooperatively with public
20 bodies of one or more states, if they are authorized by state law, and with one or more public bodies of this state
21 and to enter into agreements for joint or cooperative action.

22 (2) For the purposes of this chapter, the state or a city, town, other municipality, or county may:

23 (a) appropriate funds;

24 (b) subject to 15-10-420, levy taxes and assessments according to existing codes and statutes;

25 (c) issue and sell its general obligation bonds in the manner and within the limitations prescribed by the
26 applicable laws of the state, subject to subsection (3); and

27 (d) exercise its powers under this chapter through a board or commission or through the office or
28 officers that its governing body by resolution determines or as the governor determines in the case of the state.

29 (3) Property taxes levied to pay the principal and interest on general obligation bonds issued by a city,
30 town, other municipality, or county pursuant to this chapter may not be levied against the following property:

- 1 (a) agricultural land eligible for valuation, assessment, and taxation as agricultural land under 15-7-202;
2 (b) forest land as defined in 15-44-102;
3 (c) all agricultural improvements on agricultural land referred to in subsection (3)(a); and
4 (d) all noncommercial improvements on forest land referred to in subsection (3)(b);
5 ~~(e) agricultural implements and equipment described in 15-6-138(1)(a); and~~
6 ~~—— (f) livestock described in 15-6-136(1)(a)."~~

7
8 NEW SECTION. Section 10. Repealer. Sections 15-1-111, 15-1-112, and 15-6-138, MCA, are
9 repealed.

10
11 NEW SECTION. Section 11. Codification instruction. [Section 1] is intended to be codified as an
12 integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 1].

13
14 NEW SECTION. Section 12. Effective dates. (1) Except as provided in subsection (2), [this act] is
15 effective January 1, 2004.

16 (2) [Sections 3, 5, 7, 9, and 10] are effective January 1, 2006.

17 - END -